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United States Virgin Islands

Working paper prepared by the Secretariat

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Note: The information contained in the present working paper has been derived from public sources, including those of the territorial Government and from information transmitted to the Secretary-General by the administering Power under Article 73 *e* of the Charter of the United Nations. Further details are contained in previous working papers, available from http://www.un.org/en/decolonization/workingpapers.shtml.

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The Territory at a glance

Territory: The United States Virgin Islands is a Non-Self-Governing Territory under the Charter of the United Nations. As an unincorporated, organized territory of the United States of America, it is administered by the Office of Insular Affairs of the United States Department of the Interior.

Geography: The Territory is located in the eastern part of the Caribbean Sea, 1,075 miles south-east of the south-eastern tip of the United States and 60 miles east of Puerto Rico. It is made up of four main islands: St. Croix, St. John, St. Thomas and Water Island. The capital, Charlotte Amalie, is located on St. Thomas.

Land area: 352 km^2.

Exclusive economic zone: 33,744 km^2.[a]

Population: 106,405 (2010 census).

Languages: English or English Creole (74.70 per cent); Spanish or Spanish Creole (16.78 per cent); French or French Creole (6.57 per cent); and other (1.95 per cent).

Capital: Charlotte Amalie.

Head of territorial Government: Governor John de Jongh.

Territory's delegate to the United States Congress: Congresswoman Donna Christensen, re-elected in 2012.

Main political parties: Democratic Party; Independent Citizen's Movement; Republican Party.

Elections: Last legislative elections held in November 2012; next elections to be held in 2014 (Governor).

National legislature: Unicameral (15 senators).

Gross domestic product (GDP) per capita: $39,876.

Economy: Tourism is the primary economic activity, accounting for 80 per cent of GDP and employment. The manufacturing sector consists of petroleum refining, rum distilling, textiles, electronics, pharmaceuticals and watch assembly.

Monetary unit: United States dollar.

Unemployment rate: 11.7 per cent (December 2012 estimate).

Brief history: The Islands were a Danish Territory from 1754 to 1917 (Danish West Indies). On 31 March 1917, the Government of Denmark transferred ownership to the United States. The United States Virgin Islands have since been an organized, unincorporated Territory of the United States.

[a] Exclusive economic zone data from the "Sea Around Us" project, a collaboration between the University of British Columbia and the Pew Environment Group (www.seaaroundus.org).

I. Constitutional, political and legal issues

1. The United States Virgin Islands is an organized, unincorporated Territory of the United States. Under the Organic Act of the Virgin Islands (1936), its revision in 1954, and subsequent amendments to the Revised Organic Act of 1954, the Territory has a Legislature, also known as the Senate, which is a unicameral body comprising 15 senators elected for a two-year term by popular vote. Executive power is vested in a Governor, who since 1970, has been elected by popular vote for a four-year term on the same ticket as the Lieutenant Governor. The Governor is limited to two consecutive terms. With the advice and consent of the Legislature, the Governor appoints the heads of the executive departments and has the power to approve or veto legislation and issue executive orders.

2. In the November 2010 gubernatorial election, John Percy de Jongh of the Democratic Party was re-elected Governor and Gregory Francis was re-elected Lieutenant Governor. Their terms of office will expire in November 2014, when the next elections are due to be held. The Territory elects a delegate to the United States House of Representatives, who is able to vote in committees. Democratic Party candidate Donna M. Christensen won the 2012 election and was re-elected to a ninth two-year term as the United States Virgin Islands delegate to the United States Congress. The Territory's senatorial election was held on 6 November 2012. Craig W. Barshinger remains Senator-at-large in the thirtieth Legislature of the United States Virgin Islands.

3. The Territory's judicial system has a District Court, a Superior Court and a Supreme Court, which became operational in January 2007. The Supreme Court of the Virgin Islands is the appellate court of the Virgin Islands that hears appeals decided by the Islands Superior Court. The establishment of the Supreme Court eliminates federal judicial involvement in purely local legal matters. In December 2012, United States President Barack Obama signed House of Representatives Bill No. 6116 authorizing direct review, by the United States Supreme Court, of decisions made by the United States Virgin Islands Supreme Court. The Bill was sponsored by Congresswoman Donna Christensen, the Territory's congressional delegate.

4. Since the Organic Act of the Virgin Islands was revised by the United States Government in 1954, there have been four attempts to replace it with a local constitution approved by the people of the Territory, which would organize the internal mechanisms of government. Although the United States Congress authorized the adoption of a local constitution in 1976 under United States Public Law 94-584, none of the four attempts made were successful.

5. As previously reported, on 26 May 2009 the Fifth Constitutional Convention adopted a proposed constitution of the United States Virgin Islands by a two-thirds vote. The text of the proposed constitution was submitted to the Governor on 31 May 2009. In a preamble and 19 articles, the 27-page text of the proposed constitution includes provisions on a bill of rights; principles, branches and subdivisions of government; Virgin Islanders; elections; education; youth; taxation, finance and commerce; economic development; public health, safety and welfare; culture; protection of the environment; referendums and recalls; and creation of a Political Status Advisory Commission.

6. In its article XVII, the proposed constitution states that a Political Status Advisory Commission with a term of office of three years should be created within two years of the adoption of the constitution. Moreover, after a year of public information on the status and federal relations options of (a) statehood, (b) free association and (c) independence, a special election would be held. The special election on status would be reserved for vote by "ancestral native" and "native" Virgin Islanders, as defined in article III of the proposed constitution, whether residing within or outside the Territory.

7. Article III of the proposed constitution states that an "ancestral native" Virgin Islander is a person or a descendant of a person who was born or lived in the Territory on or before 28 June 1932 and is not a citizen of any other country; a "native" Virgin Islander is a person or descendant born in the Territory after 28 June 1932.

8. Certain provisions of the proposed constitution have been a source of contention. For instance, under article VI, only "ancestral or native" Virgin Islanders are qualified to run for Governor and Lieutenant Governor. Also, under article XI, "ancestral native" Virgin Islanders would not have to pay certain property taxes. Moreover, in a letter made public, the Governor articulated that the most general and generous reading of the draft constitution showed it to be inconsistent with basic tenets of equal protection and fairness.

9. Speaking before the Special Political and Decolonization Committee (Fourth Committee) of the General Assembly on 22 June 2010, Gerard Luz Amwur James II, President of the Fifth Constitutional Convention of the United States Virgin Islands, said that the Governor had initially refused to forward the proposed constitution to the administering Power. However, in December 2009 he complied, following a ruling of the Territory's Superior Court.

10. On 26 February 2010, the President of the United States submitted the proposed constitution to Congress, endorsing the conclusions reached by the Department of Justice that several features of the proposed text warranted analysis and comment, including: (a) the absence of express recognition of United States sovereignty and the supremacy of federal law; (b) provisions for a special election on the territorial status of the United States Virgin Islands; (c) provisions conferring legal advantages on certain groups defined by place and timing of birth, timing of residency, or ancestry; (d) residence requirements for certain offices; (e) provisions guaranteeing legislative representation of certain geographic areas; (f) provisions addressing territorial waters and marine resources; (g) imprecise language in certain provisions of the proposed constitution's bill of rights; (h) the possible need to repeal certain federal laws if the proposed United States Virgin Islands constitution is adopted; and (i) the effect of congressional action or inaction on the proposed constitution.

11. According to the same statement made by the President of the Fifth Constitutional Convention before the Fourth Committee, in March 2010 a delegation of the Convention, led by him, held consultations with United States congressional officials. The officials expressed a major objection to the provision in the proposed constitution regarding the ownership by the people of the Territory of their marine resources. Another objection related to any meaningful reference to the native population and the provision of certain benefits. As a result, the United States

Congress asked the Convention to reconvene in order to consider the administering Power's objections to the proposed constitution.

12. The President of the Convention stressed that there was no provision in the proposed constitution to alter the status of the Territory and that it would not serve as the basis for removing it from the United Nations list of Non-Self-Governing Territories. The proposed constitution contains a relevant provision that would, upon adoption of the text, create a mechanism to examine future options with regard to political status.

13. On 11 September 2012, the Governor signed Act No. 7386 establishing and convening a body called the Fifth Revision Convention, formed by the 30 delegates elected to the Fifth Constitutional Convention along with five attorneys. The Fifth Revision Convention was convened on 1 October and mandated to ratify and approve, no later than 31 October, by a two-thirds majority vote of all the delegates, the final revised draft constitution consistent with the nine issues identified by the United States Federal Government (see para. 10 above). The Act established that if the Fifth Revision Convention agreed upon a proposed revised draft constitution by the deadline, the President of that body should have it submitted to the Governor and to the President of the United States. In case of non-adoption of the text, both the Fifth Constitutional Convention and the Fifth Revision Convention would be dissolved and the Legislature of the United States Virgin Islands would have full authority to address the Territory's constitution.

14. At the time of writing, however, the outcome of the Fifth Revision Convention remained unclear and surrounded by controversy. In January 2013, in his State of the Territory address, the Governor expressed the hope that the Territory would find "the means and courage that will lead us from the Organic Act to a Virgin Islands constitution".

II. Budget

15. In June 2012, the fiscal year 2013 executive budget for the Government of the United States Virgin Islands, totalling $695.8 million, was proposed by the Governor to the Legislature. In October 2012, the Governor signed the budget into law but vetoed one section of the bill.

16. In June 2011, the Legislature passed the Economic Stability Act, which included provisions seeking to reduce the salaries of all government employees in the executive and legislative branches, institute a hiring and rehiring freeze and provide a $10,000 retirement incentive to employees with over 30 years of service. The Governor signed the bill with some line-item vetoes. The pay cuts would be in place until 2013.

17. The United States Federal Government continued to provide funding for the Territory's budget, inter alia, through the American Recovery and Reinvestment Act. As at 31 December 2012, funds awarded amounted to $284,188,676, of which $194,169,902 had been received.

III. Economic conditions

A. General

18. According to the territorial Government, several factors continue to limit economic growth, including the frailty of the United States economy and the Government's budget deficit. The agricultural sector remains small while the financial services industry constitutes a growing component of the economy. There is also growth potential in the telecommunications sector, which is contingent on improved reliability and connectivity.

19. In October 2012, the United States Bureau of Economic Analysis released GDP estimates for the United States Virgin Islands for 2010 and revised estimates for 2002 to 2009. For the first time, it also included estimates of GDP and compensation by industry, and detailed consumer spending. Estimates for 2011 are planned to be released in 2013.

20. Since 2009, in a joint effort with the Office of Insular Affairs of the United States Department of the Interior, under the Statistical Improvement Programme, the Bureau of Economic Analysis has produced estimates with the aim of providing a comprehensive, objective measure of economic activity for the territories in order to support economic and financial decisions. According to the Bureau, the long-term goal of the joint effort is to integrate the United States Virgin Islands and the other territories into the estimates of national GDP and the national income and product accounts, which are essential in order to better understand the territorial economies. The United States Virgin Islands Bureau of Economic Research is coordinating efforts with the Bureau of Economic Analysis to improve the estimates of the territorial GDP and incorporate information from the Territory's 2012 economic census.

B. Tourism

21. Tourism, which accounts for 70 per cent of GDP, remains so far the main sector of the United States Virgin Islands economy. Its importance can be seen both in terms of direct employment and its impact on entrepreneurship and small business development. Approximately 2 million tourists visit the Islands annually, arriving by cruise ship and air. According to the United States Virgin Islands Bureau of Economic Research, the number of visitors arriving by air increased by 8.6 per cent between 2011 and 2012, totalling 737,650 in December 2012. Passengers arriving on cruise ships decreased by 5.2 per cent over the same period, reaching 1,904,468 visitors in late 2012. Hotel occupancy rates decreased by 3.4 per cent between January 2011 and August 2012. With a view to reinvigorating the tourism industry, the territorial Government expanded the cruise ship base in St. Thomas and brought cruise ships back to St. Croix on a regular basis. Air service and the capacity of airlines serving the Territory have also been expanded. Plans are under way to invest in hotel developments and increase the participation of private investors.

C. Manufacturing, construction and financial services

22. The manufacturing sector, which is the second largest sector in the economy, accounts for 5 per cent of total non-agricultural wage and salary employment. The number of manufacturing jobs averaged 2,091 in the first six months of fiscal year 2012, according to the Bureau of Economic Research. Refined petroleum products were the dominant commodities produced by this sector. Other major commodities include rum and watches.

23. According to a report from the United States Department of the Interior, Office of Insular Affairs, the closure of the Hovensa oil refinery on St. Croix in early 2012 (see A/AC.109/2012/8, para. 20), resulted in a large and abrupt loss in GDP, employment and tax revenues. GDP loss was estimated at $580 million a year or 12.9 per cent of an estimated total GDP of $4.5 billion. Closure of the refinery also led to an estimated total of $92 million in lost taxes and a direct employment loss of 2,471 positions, or 12.0 per cent of total employment in the Territory.

24. According to information from the United States Virgin Islands Bureau of Economic Research, a large percentage of manufacturing shipments come from rum production. Rum produced in the United States Virgin Islands is primarily exported to the United States and sold to local and regional bottlers for sale under a variety of private label and regional brand names. In the first half of the 2012 fiscal year, some 8.4 million proof gallons of rum were exported. The Territory received $70.1 million in excise taxes. In March 2012, the cover-over rate reverted back to $10.5 per gallon from $13.25.

25. Also according to data from the United States Virgin Islands Bureau of Economic Research, the total construction permit value, which measures future construction activity, decreased by 15.1 per cent between January 2011 and September 2012. Additionally, exports from the watch industry decreased by 6.5 per cent in the first half of fiscal year 2012.

D. Trade, transportation and utilities

26. In September 2012, the United States Department of Transportation awarded the Virgin Islands Port Authority (VIPA) a grant of $8.7 million to finance aviation projects at the Cyril E. King Airport on St. Thomas.

27. The United States Virgin Islands has approximately 1,250 km of roadways and some 65,000 registered vehicles. The Territory also enjoys one of the best natural deep-water harbours in the Caribbean and it is strategically located along the Anegada Passage, a key route for ships bound for the Panama Canal. The Territory has five major docking facilities, which can accommodate cruise ships and some naval vessels. Three of the docks are on St. Croix, namely South Shore, Gallows Bay and Frederiksted. The other two are on St. Thomas, namely, the facilities operated in Crown Bay by the Virgin Islands Port Authority, a semi-autonomous Government agency, and the Islands-owned West Indian Company.

28. The Virgin Islands Water and Power Authority (WAPA) is an autonomous governmental entity of the territorial Government that produces and distributes electricity and potable water to approximately 54,000 electrical and 12,000 potable water customers. The Territory is implementing a plan to reduce its dependence on

fossil fuels by 60 per cent over the next 15 years. WAPA is engaged in the Puerto Rico and United States Virgin Islands High Voltage Interconnection Project, interconnecting the two electrical power systems.

29. Owing to limited freshwater supplies, salt water is used extensively for non-domestic purposes, including fire fighting and sewage. A desalination plant on St. Thomas produces approximately 4.5 million gallons of water per day. Wells, particularly on St. Croix, supply the remainder of the freshwater necessary. Owing to the high cost of water, average daily consumption is about 50 gallons per person per day, about one third the United States average.

30. In terms of communications, the Territory has approximately 59,000 telephones, 8,700 Internet hosts (a computer connected directly to the Internet) and a number of radio and television broadcasting stations. In cooperation with the United States Department of Commerce, the Territory is working on a broadband project, expected to be completed by June 2013, with over $115 million federal, in kind and local cash contributions. The project will create over 300 construction jobs. When completed, over 45 public computer centres will be established or renovated with advanced information technology.

E. Agriculture and fisheries

31. Historically, sugar cane and, to a lesser extent, cotton were the main sources of revenue for the Territory's economy. Currently, the agricultural sector is very small and comprises mainly fruit and vegetable cultivation and cattle-raising.

32. In 2012, the Virgin Islands Department of Agriculture (VIDOA) continued its farmer-focused programmes and services and worked to complete and develop new projects. VIDOA received funding from the Agricultural Marketing Service of the United States Department of Agriculture to implement the Farmers' Market Nutrition Programme for the first time in the Territory. The Bordeaux Farmers Market and new irrigation facilities opened officially in February 2013. Other projects include the Young Agricultural Professionals Training Programme, the Virgin Fresh Marketing Campaign, and phase II of the Estate Bordeaux Farmers' Market, which is planned for completion in 2013.

IV. Social conditions

A. Labour

33. According to data from the United States Virgin Islands Bureau of Economic Research, civilian employment fell by 3.2 per cent between January 2011 and December 2012, for a net loss of 1,462 jobs. Unemployment averaged 11.7 per cent for 2012. According to the document on the executive budget for fiscal year 2013, locally funded programmes administered by the Virgin Islands Department of Labor continued to struggle for survival and federally funded programmes were funded at lower levels. The closure of the Hovensa plant in 2012 reduced the median household income and the average wage.

B. Education

34. Education in the United States Virgin Islands is compulsory and free for all children between 5 and 16 years of age. The Territory's Department of Education is comprised of a State Education Agency and two Local Education Agencies for the St. Thomas/St. John District and the St. Croix District. The St. Thomas/St. John District has 2 high schools, 3 middle schools and 10 elementary schools. The St. Croix District has 10 elementary schools, 3 middle schools and 2 high schools. The University of the Virgin Islands has campuses on St. Thomas and St. Croix and has a combined full- and part-time student body of 2,642 students.

C. Public health

35. The Virgin Islands Department of Health maintains facilities on St. Thomas, St. John and St. Croix. It also maintains a long-term care facility on the island of St. Thomas. Outreach efforts include educational, preventive and treatment services via clinics and subdivisions for maternal and child health, family planning, environmental health, sexually transmitted infections, HIV and tuberculosis, mental health and substance abuse. The Department administers 33 activity centres and 16 federal programmes under the auspices of the Office of the Commissioner and the divisions dealing with fiscal affairs, support services, public health services and health promotion and statistics.

36. In his 2013 State of the Territory address, the Governor noted that, with an ageing population, the Territory's health-care costs are rising each year, and the pension system, with an unfunded liability, has been underfunded for decades. A professional development system is being created and children's health fairs have been held for children in need of early intervention. Additionally, the territorial Government launched a "Text4Baby" campaign targeting pregnant women and mothers of newborns.

37. Priorities and indicators for the maternal, child and adolescent health population were identified following the Territory's Department of Health Needs Assessment for the 2010 to 2015 cycle. In that regard, the 2011 Maternal and Child Health Title V Block Grant application marked the beginning of a new five-year planning and implementation cycle. In accordance with the United States HIV/AIDS Treatment Extension Act signed in 2009, the Territory continued to receive important support for related programmes.

38. The United States Virgin Islands Health Information Exchange Strategic and Operational Plan, issued in January 2011 by the Territory's Department of Health, describes the path the Territory intends to follow to develop the capabilities of the Exchange to enable the meaningful use of electronic health records among providers and health-care providers. The Plan states, inter alia, that because of historical low federal funding for health care in the United States Virgin Islands due to its Territorial status, the Territory's health information technology infrastructure is relatively underdeveloped.

D. Crime and crime prevention

39. In his 2013 State of the Territory address, the Governor noted that public safety is the third cornerstone of future development and quality of life in the Territory. The problem of violent crime remains unsolved with 56 murders registered in 2012. Half the murders involved persons 30 years of age or younger. The territorial Government initiated a review of gun-licensing procedures, security measures at schools and the overarching issue of guns in the Territory.

V. Environmental protection and disaster preparedness

40. A 2009 bill provided for raising awareness about the use of renewable energy alternatives in both the public and private sectors. In 2010, the United States Virgin Islands received nearly half a million dollars in federal funds to help preserve coral reefs near St. Croix, which, like coral reefs across the Caribbean and elsewhere, face a growing threat of extinction from rising ocean temperatures. The funds were issued by the National Oceanic and Atmospheric Administration of the United States of America.

41. In the area of emergency preparedness, the Territory has continued to enhance its operations with the opening of the new headquarters of the Virgin Islands Territorial Emergency Management Agency. The consolidation of emergency call centre operations at two districts has enhanced organizational efficiency by improving responsiveness to residents at their most critical time of need. In June 2011, the Agency installed 10 all-hazards warning sirens across the Virgin Islands — 4 on St. Croix, 4 on St. Thomas and 2 on St. John — concentrating, in particular, on areas considered at high risk for tsunamis. In October 2012, the Agency announced the installation of a new siren warning system replacing faulty repeaters located on St. Croix, St. Thomas and St. John. The system is designed to warn anyone within its range of an imminent threat or danger. Eleven additional sirens will be installed. The installation of tsunami hazard zone and evacuation route signs Territory-wide is expected to be completed in 2013. The Agency is also working to secure federal funding to produce tsunami evacuation maps.

42. In January 2013, the United States Environmental Protection Agency published its annual report on the amount of toxic chemicals released in 2011 to the land, air and water by industrial facilities in the United States Virgin Islands. The report showed an increase in emissions in the past year. Total reported emissions to land, air and water by the four facilities monitored increased from about 760,000 pounds in 2010 to about 1.8 million pounds in 2011. Much of the increase was owing to new requirements to report two chemicals released by the Hovensa facility on St. Croix and a more accurate method used by Hovensa to calculate emissions.

VI. Relations with international organizations and partners

43. The United States Virgin Islands is an associate member of the Economic Commission for Latin America and the Caribbean. The Territory has observer status with the Association of Caribbean States and with the Alliance of Small Island States, which serves as a platform to promote action on environmental issues, including climate change. According to information provided by the administering

Power, the United States Virgin Islands received acceptance as a territorial Government with observer status at the Organization of Eastern Caribbean States in the last quarter of 2009.

44. In 2012, the Governor of the United States Virgin Islands and the Premier of the British Virgin Islands participated in the fifth meeting of the Inter-Virgin Islands Council, which was held in the United States Virgin Islands. Topics such as the development of clean energy resources, cultural preservation, educational and higher learning opportunities for young people, commercial fishing and marine regulations, combating crime and gangs, and the development of common tourism interests were discussed. A memorandum of understanding on the analysis of DNA evidence was signed between the respective police departments.

VII. Future status of the Territory

A. Position of territorial Government

45. Developments regarding discussions on the future status of the United States Virgin Islands are reflected in section I above.

B. Position of administering Power

46. In a letter dated 2 November 2006 addressed to the American Samoa delegate to the United States Congress, the Assistant Secretary of State for Legislative Affairs elaborated on the position of the United States Government on the status of American Samoa and other United States Insular Areas. In his letter, as previously reported, the Assistant Secretary indicated that the status of the Insular Areas regarding their political relations with the Federal Government was an internal United States issue, and not one that came under the purview of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples. The Assistant Secretary also noted that the Special Committee had no authority to alter in any way the relationship between the United States and those Territories and no mandate to engage the United States in negotiations on their status. In the letter, it was stated that, at the same time, in accordance with its obligations under the Charter of the United Nations to provide regularly to the United Nations statistical and other information of a technical nature relating to economic, social and educational conditions, the Federal Government did submit annual updates on United States Territories to the Special Committee of 24 as a demonstration of United States cooperation as an administering Power and as a corrective to any errors in information that the Special Committee of 24 might have received from other sources.

C. Action taken by the General Assembly

47. On 18 December 2012, the General Assembly adopted, without a vote, resolutions 67/132 A and B, based on the report of the Special Committee (A/67/23) and the subsequent recommendation by the Fourth Committee. Section XI of

resolution 67/132 B concerns the United States Virgin Islands. Under that section's operative paragraphs, the General Assembly:

1. *Welcomes* the proposal of a draft constitution emanating from the Territory in 2009, as a result of the work of the United States Virgin Islands Fifth Constitutional Convention, for review by the administering Power, and requests the administering Power to assist the territorial Government in achieving its political, economic and social goals, in particular the successful conclusion of the ongoing internal Constitutional Convention exercise;

2. *Requests* the administering Power to facilitate the process for approval of the proposed territorial constitution in the United States Congress and its implementation, once agreed upon in the Territory;

3. *Also requests* the administering Power to assist the Territory by facilitating its work concerning a public education programme, consistent with Article 73 *b* of the Charter, and in that regard calls upon the relevant United Nations organizations to provide assistance to the Territory, if requested;

4. *Expresses its concern* regarding the negative impact of the Hovensa plant closure;

5. *Reiterates its call* for the inclusion of the Territory in regional programmes of the United Nations Development Programme, consistent with the participation of other Non-Self-Governing Territories;

6. *Welcomes* the active participation of the Territory in the work of the Economic Commission for Latin America and the Caribbean;

7. *Also welcomes* the holding, for the first time at the level of heads of territorial Government, on 12 May 2011, of the meeting of the Inter-Virgin Islands Council between the Territory and the British Virgin Islands.